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Statement of Rep. Christopher Shays March 28, 2006

Homeland security will never be about certainties. It will always be about probabilities, about risks and about choices. Which cargo containers to inspect? Which airline baggage to screen? Or, as we ask today, who among the estimated twelve million non-citizens illegally residing within our borders should the Department of Homeland Security (DHS) choose to pursue?

In creating the Department of Homeland Security (DHS), the goal was to consolidate previously dispersed security functions to gain the seamlessness and synergies needed to confront post-9/11 threats. The DHS Bureau of Immigration and Customs Enforcement (ICE) brought under one bureaucratic roof for the first time the interior enforcement functions of Immigration and Naturalization Service, formerly part of the Department of Justice, and the investigative arm of the Treasury Department's U.S. Customs Service. The merger doubled the number of agents available to secure the homeland against those who would exploit our openness and hospitality.

But in 2004 we learned that suspected terrorists who entered the country on revoked visas were not being consistently tracked or removed. Cumbersome, reactive processes at ICE raised questions about how the bureau sets investigative priorities to meet new threats to national security. At our request, the Government Accountability Office (GAO) examined how the ICE Office of Investigations is organized, how risks are evaluated and how the Department's largest investigative force allocates resources against a diverse, changing mission portfolio.

GAO found inherited structures and missions still tend to dominate ICE enforcement activities. Only a small percentage of investigative resources are focused on national security cases. Even that nexus to national security is often passively imputed to legacy lines of business, like munitions violations and illegal exports, rather than being driven by a proactive effort to target vulnerabilities. Drugs, financial crimes, general immigration violations, smuggling, human trafficking, document fraud and worksite enforcement draw the bulk of ICE attention.

These are important missions, but the challenge remains to incorporate a variety of inherited mandates into a coherent strategy based on a clear-eyed risk assessment. Under that strategy, ICE should actively probe for systemic weaknesses that could be exploited to our detriment. We have to assume the terrorists are doing the same.

GAO did find some evidence national security risks are beginning to drive investigative priorities. While the bureau has authority to look into any employer suspected of hiring aliens illegally, ICE investigators have been instructed to focus their attention on critical infrastructure sites. Recent actions against non-citizens found working at nuclear facilities and defense plants demonstrate the effective fusion of the immigration and security missions.

Still, the effort to achieve that symbiosis more broadly and consistently presents profound challenges. Old field structures may not serve new missions. Traditional law enforcement methods do not always measure tangible outcomes against changing threats. Like sand in the gears, some cases still trigger bureaucratic turf battles and clog interagency communication and cooperation channels between ICE and other investigative forces inside and outside DHS. And miscast investigative priorities can appear to target enforcement activity arbitrarily or inappropriately on persons who pose little real threat to our security.

These issues will be addressed by two panels of witnesses who bring expertise, experience and insight to our discussion. We are grateful for their time and we look forward to their testimony.